REMARKS

Claims 1, 2 and 4 to 26 are the pending claims, of which Claims 1, 8, 9, 12 and 16 are the independent claims. Claims 1, 2, 5, 8, 9 to 12, 14 and 16 are being amended. Reconsideration and further examination are respectfully requested in light of the foregoing amendments and following remarks.

The Office Action rejects Claims 1, 8, 9 and 12 under 35 U.S.C. § 112, second paragraph, and contends that the recitation that the playlist content is other than streaming content is unclear since the playlist comprises references to streaming content. The Office Action contends that it is clear that the claim language recites that the playlist contains references to content and not the content itself. In view of the admissions made in the Office Action, the Applicant amends the claims. The amendments are being made to advance prosecution and without any concession as to the correctness of the rejection.

By way of a non-limiting example and in accordance with one or more embodiments, a playlist is built at a server in response to a request for the playlist. The playlist, which comprises references to streaming media and advertising content, is communicated to the user computer. The references contained in the playlist are used to request content from a server. A server receives a content reference in a request for content, and transmits the content to the user computer in response. In accordance with one or more embodiments and by way of a further non-limiting example, the request that results in the building of the playlist at the server includes information used by the server to determine an indicator for an advertisement that is to be included in a reference contained in the playlist, which indicator indicates when the advertisement should be played in relation to the media content. By way of yet a further non-limiting example and in accordance with one or more embodiments, content referenced in the playlist contains a script command that triggers a server to transmit HTML data that is to be experienced in a data frame while the content that referenced that the HTML data is experienced in a streaming content frame at the user computer.

By the Office Action, Claims 1, 2 and 4 to 26 are rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,760,916 (Holtz). Reconsideration and withdrawal of the rejection are respectfully requested.

The Applicant has previously pointed out that Holtz has a later filing date than the present Application, and the Examiner concedes that he is relying on the disclosure of U.S. Application Serial No. 09/634.735 (Snyder) and its August 8, 2000 filing date in order to apply the disclosure of Holtz against the claims of the present application. At the time that the rejection was first made, Snyder had not yet issued as a patent, and could not be applied against the claims of the present application. In the Applicant's previous response, it was pointed out that Snyder has issued as U.S. Patent No. 7,024,677. Since by definition Holtz contains new matter not previously described in the Snyder reference, it is unclear why the Examiner continues to apply the Holtz reference over the Snyder reference.

In an effort to advance prosecution and without conceding in any way the propriety of the rejection based on Holtz, the Applicant provides the following remarks with regard to the portions of Snyder identified by the Examiner in the Office Action.

Snyder cannot form the basis of a proper § 102 rejection, and further cannot form the basis of a proper § 103(a) rejection, since Snyder is missing multiple elements of the claims. The claims should therefore be patentable over Snyder.

Claim 1 recites a method by which a frame set is built in a browser window, the frame set comprises a media player frame to experience streaming content from a media player executing at said user computer and a data frame. A playlist requested from a source on a network is received. The playlist's contents comprise a list of references identifying streaming advertisement and media content. For each advertisement a reference contained in the playlist includes an indicator that indicates when the advertisement should be played in relation to the media content. The user computer connects to at least one media server to request the streaming advertisement and media content from the server using the playlist's contents. HTML content related to the requested streaming content is received, and the streaming content is simultaneously played in the media player frame as the HTML content is displayed in the data frame.

The claimed invention is fundamentally different from Snyder's on-demand system which responds to a demand for content by collecting segments of content at the server and then streaming the content from the server to the user computer once all of the content segments have been collected at the server. Snyder's playlist resides on the server and consists of the content

itself, which is not at all like the claimed playlist which comprises references to content which are sent as a playlist to the user computer. Snyder transmits the stored content itself to the user, which is not the same as transmitting a playlist that references the content. Furthermore and since Snyder's playlist consists of the content itself and not references to the content, Snyder's playlist cannot be used by the user to connect to a media server to request content using such references. Furthermore and since Snyder's playlist consists of the content itself and not references to content, Snyder cannot be said to transmit a reference that includes an indicator for an advertisement, which indicator indicates when the advertisement is to be played in relation to media content.

Nothing in Snyder discloses, suggests or teaches a user computer receiving a playlist whose contents comprise a list of references identifying streaming advertisement and media contents and for each advertisement a reference contained in the playlist includes an indicator that indicates when the advertisement should be played in relation to the media content. Nothing in Snyder discloses, suggests or teaches a user computer connecting to at least one media server to retrieve streaming advertisement and media content from the server using the playlist's contents.

Claim 1 is therefore believed to be patentably distinct from Snyder. Claims 2 and 4 to 7 depend from Claim 1 and are believed to be patenably distinct from Snyder for at least the same reasons discussed above with respect to Claim 1. In addition, Claims 2 and 4 to 7 recite additional elements that are not taught, suggested or disclosed by Snyder.

Claim 2 further recites that the receiving of HTML content includes providing the HTML content related to streaming content being experienced in a media player frame in a data frame in response to execution of an embedded command in the streaming media content. The Office Action fails to provide any reference to any portion of Snyder, and none can be found, that teaches, suggests or describes a command embedded in streaming content that results in HTML content related to the streaming content being experienced in a media player frame being provided in a data frame. The Office Action cites portions of Snyder that describe script code, but nothing in the cited portions teaches, suggests or describes embedding a command into streaming content, and nothing in Snyder teaches, suggests or describes a command embedded in streaming content such that related HTML content is provided in a data frame.

Claim 5 recites that an embedded script command is received in the streaming content requested using the references in the playlist. The embedded script command references the remotely-stored HTML content that is related to the streaming content requested using the playlist's references and that is being experienced in the browser window. The Office Action fails to provide any reference to any portion of Snyder, and none can be found, that teaches, suggests or describes a script command embedded in streaming content that references HTML content related to the streaming content.

Claim 6 further recites that the indicator included in a reference in the received playlist indicates whether the advertisement is to be played before, during or after the media content. The Office Action fails to provide any reference to any portion of Snyder, and none can be found, that teaches, suggests or describes a playlist containing references to streaming media, with a reference contained in the playlist indicating whether an advertisement is to be played before, during or after media content.

Claims 4 and 7 recite that the playing (Claim 4) or viewing (Claim 7) of the claimed advertisement being logged. The Office Action fails to provide any reference to any portion of Snyder, and none can be found, that teaches, suggests or discloses logging the playing or viewing of the claimed advertisement.

Independent Claims 8 and 9, and Claims 10 and 11 which depend from Claim 9, are believed to be patentably distinct over Snyder for at least the foregoing reasons.

Independent Claim 12 recites a method comprising receiving a request for a playlist, building a playlist using information included in the request, the playlist's contents comprise a list of references identifying streaming advertisement and media content, wherein each reference identifying advertisement content comprises an indicator of when the advertisement should be played in relation to the media content, and transmitting the playlist to a user computer.

Independent Claim 16 recites a method that receives a request for a playlist from a user computer, the request including advertisement placement information, builds a playlist using the advertisement placement information such that the playlist includes a reference to streaming advertisement content, or a reference to streaming media content which has at least one embedded command including advertisement identification information to be processed as the

streaming media content is being experienced at said user computer, or both, and transmits the playlist to the user computer.

As discussed above, Snyder is limited to collecting content at the server, which is not the same as building a playlist the contents of which comprise a list of references identifying streaming advertisement and media content, and is also not the same as building a playlist which comprises a reference that identifies advertisement content and indicates when the advertisement should be played in relation to media content. There is nothing in Snyder that builds a playlist that includes a reference to streaming advertisement content, or a reference to streaming media content which has at least one embedded command including advertisement identification information to be processed as the streaming media content is being experienced at said user computer, or both.

Claim 13, which depends from Claim 12, further recites that information contained in a request for a playlist includes information that identifies a location of information to configure a frame set on a user computer to which the playlist is sent. Snyder's on-demand system focuses on responding to a demand for content, and nothing in Snyder teaches, suggests or describes a request for a playlist, the request including information that identifies a location of information to configure a frame set on a user computer.

In view of the above reasons provided in connection with the claims, both independent and dependent, discussed above, independent Claims 12 and 16, and Claims 13 to 15 (which depend from Claim 12) and Claims 17 to 26 (which depend from Claim 16), are believed to be patentably distinct from Snyder.

Since Snyder is missing multiple elements of the claims, Snyder cannot form the basis of a proper § 102 rejection, and further cannot form the basis of a proper § 103(a) rejection, as there is nothing of record that provides the missing claim elements. The claims should therefore be patentable over Snyder. Since Snyder is missing multiple elements of the claims, Holtz, which must necessarily rely on the disclosure of Snyder in order to even be considered to be prior art, cannot form the basis of a proper § 102 rejection, and further cannot form the basis of a proper § 103(a) rejection, for the same reasons. Withdrawal of the § 102 rejection of the claims is proper, and is respectfully requested.

In view of the foregoing, the entire application is believed to be in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Should matters remain which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone the Applicant's undersigned attorney. Alternatively, since it is believed that the claims of the present application are in condition for allowance, the Examiner is respectfully requested to issue a Notice of Allowance at the Examiner's earliest convenience.

The applicant's attorney may be reached by telephone at 212-801-6729. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 32361.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-1561. Please ensure that the Attorney Docket Number is referenced when charging any payments or credits for this case.

Respectfully submitted,

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